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# GRAIN

STANDARDS and MARKETING

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## LAWS

of the

## STATE OF MONTANA



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Revised 1970

The Department of

# AGRICULTURE

HELENA, MONTANA



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## *Foreword*

The Montana law sets up requirements for licensing and bonding public warehousemen of grain and agricultural seeds, grain dealers, track buyers, agricultural seed buyers, mustard seed contractors, brokers, commission men, or persons or association of persons merchandising in grain and provides penalties for engaging in such enterprises unless so licensed by the Department of Agriculture.

The above department is given broad powers to supervise the marketing of grain in Montana and responsibilities for protecting the interests of owners of grain stored in public warehouses in the State.

State Grain Testing Laboratories are located at Great Falls and Bozeman, equipped to serve the grain producer and grain trade in carrying out the provisions of the law as regards proper grading, dockage and protein determination of submitted samples or car lot samples taken by State samplers.

This booklet is made available to all who are interested in the laws and regulations governing the marketing of grain in Montana.

Further information may be had by addressing the Department of Agriculture, Helena, Montana.

The Montana Wheat Research and Marketing Act became effective August 20, 1967. Very briefly, it is intended to benefit all involved in the wheat industry in Montana. It does this by aggressively working to solve our problems of production and marketing.

To finance this important program, the law provides for the assessment of  $\frac{1}{4}$ -cent per bushel on wheat sold in Montana. This collection is to be made by the "first purchaser."

Therefore, all who are involved in buying grain become extremely important parts of the operation of the Montana Wheat Research and Marketing Committee. Should you have any questions or suggestions at any time please do not hesitate to bring them to the attention of the committee. The Montana Wheat Research and Marketing Committee is officed in the First National Bank Building, Great Falls, Montana.

GEORGE LACKMAN

Commissioner of Agriculture





## DEPARTMENT OF AGRICULTURE

### GRAIN STANDARDS & MARKETING

3-110. **Regulation of farming industry and allied subjects. Duty of Department of Agriculture.** The Department of Agriculture, through its authorized agents and representatives, shall enforce all the laws of Montana now existing or hereafter enacted for the protection and regulation of the farming industry in Montana; it shall also make a special study of the conditions of farm life in Montana and the problems of marketing and distribution of farm products, and shall from time to time make recommendations to the governor concerning needed legislation upon such subjects, it shall enforce the provisions of section 3-801 to 3-808 of this code, relating to purity of agricultural seeds, and of sections 3-1001 to 3-1005 of this code, relating to the eradication of the barberry plant, and of sections 3-1306 to 3-1308 of this code, relating to the control of insect pests and plant diseases, and for that purpose shall make proper and necessary rules and regulations.

3-115. **The division of grain standards and marketing.** The Department of Agriculture, through the Division of Grain Standards and Marketing, shall enforce all the laws of the State of Montana concerning the handling, weighing, grading, inspection, storage and marketing of grain, and the management of public warehouses.

3-201. **Definitions.** Whenever the word "grain" is mentioned in this act, it shall be construed to include flax. The term "public warehouse" includes any elevator, mill, warehouse, or structure in which grain is received from the public for storage, milling, shipment or handling. The term "public warehouseman" shall be held to mean and include every person, association, firm and corporation owning, controlling, or operating any public warehouse in which grain is stored or handled in such a manner that the grain of various owners is mixed together, and the identity of the different lots or parcels is not preserved. The term "grain dealer" shall be held to mean and include every person, firm, association and corporation owning, controlling, or operating a **truck, tractor-trailer unit, or** warehouse, other than a public warehouse, and engaged in the business of buying grain for shipment or milling. The term "track buyer" shall mean and include every person, firm, association, and corporation who engages in the business of buying grain for shipment or milling, and who does not own, control, or operate a warehouse or public warehouse. The terms "agent", "broker", and "commission man" shall mean and include every person, association, firm and corporation who engages in the business of negotiating sales or contracts for grain or of making sales or purchases for a commission.

3-205. **Inspectors of grain—samplers and weighers—qualifications—interest—bonds.** The Commissioner of Agriculture shall appoint a chief inspector of grain for the State, who shall also serve as chief weigher of grain for the State, and such number of inspectors, samplers and weighers as may be necessary to properly and thoroughly enforce the provisions of this act. At all inspection points designated by the Commissioner he shall provide sufficient inspectors and weighers to inspect and weigh all grain subject to state inspection, under the supervision of the chief

inspector; provided, however, that grain held in transit for inspection and diversion only, need not be weighed. Such chief inspector and inspectors shall be able to qualify under the terms and in accordance with the United States Federal Grain Standards Act. No chief inspector, inspector, sampler or weigher shall be interested directly or indirectly in the handling, sorting, shipping, purchasing or selling of grain or grain products.

**3-206. Penalty for misconduct by inspectors.** Any inspector, sampler or weigher who shall be guilty of any neglect of duty, or who shall knowingly or carelessly inspect, sample, or weigh any grain, or who shall, directly or indirectly, accept any money or other consideration for any neglect of duty or any improper performance of duty as such inspector, sampler, or weigher, or any person, persons, corporation or agents, who shall improperly influence, or attempt to improperly influence, any inspector, sampler, or weigher in the performance of his duties, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars, or be imprisoned in the county jail not less than thirty days nor more than one year, or by both such fine and imprisonment, in the discretion of the court.

**3-207. Designation of inspection points—deputy inspectors.** Such cities and towns where grain is received in carload lots may be designated by the Commissioner of Agriculture as inspection points, and be provided with State inspection and weighing; provided, that the expenditures for the inspection and weighing at the points designated by the Commissioner shall not exceed the receipts of fees at such point or points. The Commissioner may also assign deputy inspectors to such territory or portions of the State as it may determine to be necessary, and it shall be the duty of such deputy inspectors to inspect grain delivered in less than carload lots in such territory or portions of the State to which they may be assigned, to furnish producers within such territory or portions of the State with such inspection as shall enable them to determine the grade of their grain, and to perform such other duties as the Commissioner may prescribe.

**3-208. Charges of Public Warehousemen.** Charges must be made by all public warehousemen subject to the provisions of this act for the handling or storage of grain, as follows:

(a) Not to exceed four cents (4¢) per bushel for receiving, elevating, weighing, and immediate delivery on car of the identical grain without mixing. Immediate delivery shall mean that the total period of assemblage and delivery does not exceed seventy-two (72) hours.

(b) Four cents (4¢) per bushel for all grains except flax, for receiving, grading, weighing, elevating, insuring, fifteen (15) days or part thereof free storage, and delivering to the owner. For flax this charge shall be five cents (5¢) per bushel.

(c) Not to exceed five cents (5¢) per bushel for cleaning grain at request of owners where there are cleaning facilities, in which case screenings shall be delivered to owner.



(d) The charges for storage shall be: one-thirtieth of one cent per bushel for each day in storage after period of free storage has elapsed.

(e) Twenty-five per cent (25%) reduction from the above charges shall be allowed when the market price of wheat being sold at point of origin at time of sale is less than fifty cents (50¢) per bushel.

(f) The schedule of charges for cleaning shall be posted in a conspicuous place where grain is unloaded for cleaning.

Failure on the part of any public warehouseman to comply with the provisions of this act will render the licenses of such warehouseman subject to revocation and cancellation by the Commissioner of Agriculture.

**3-209. Establishment of standard grain grades—procedure.** The Commissioner of Agriculture shall fix and establish standard grades to apply to all grain bought or handled by public warehouses in this State. The Commissioner of Agriculture shall adopt as State grade standards all grades for grain now or hereafter established by the United States Department of Agriculture. Standards for grain, other than those fixed as above, shall be established by the Commissioner of Agriculture after due notice and public hearing, notice thereof to be given by publication in three newspapers of the State, at least ten days prior to such hearing.

Grade Standards, or any alteration or modification of such standards, which the Commissioner of Agriculture may establish, shall not become effective within thirty days after publication, except in the case of grades established by the United States Department of Agriculture, which shall become effective ten days after publication.

All interested persons desiring to be heard shall be permitted to give testimony, and such other witnesses may be subpoenaed as the Commissioner of Agriculture may deem necessary, which witnesses shall be entitled to the same fees and mileage as are provided for witnesses in civil actions, and shall be paid out of the fund created by the provisions of this act. Such grain standards shall not apply to grain contracted for previous to their disposition.

**3-210. Rules governing dockage—sample inspection.** The Commissioner of Agriculture shall, after such hearing, make an issue reasonable rules and regulations governing the dockage, which shall be made on inferior grades and in all executory contracts thereafter entered into, provided that the same shall not conflict with the terms of the United States Federal Grain Standard Act. Where the price or amount to be paid therefor depends upon terminal weight or grade, such rules and regulations shall control the dockage in so far as the same affects the price to be paid, and such rules and regulations shall become part of the contract of sale. The Commissioner of Agriculture shall also make provisions for sample inspection of grain, make rules and regulations governing same and provide that such inspections when made shall be final.

**3-211. Cleaning apparatus to remove dockage—hearing—appointment of deputy inspectors.** The Commissioner of Agriculture shall have power to require, after personal notice of not less than thirty

days served upon any warehouseman and a public hearing, cleaning apparatus to be established where none now exists to remove dockage and the return of same to the owner, or its equivalent in value, less cleaning charges, which may be fixed by the Commissioner of Agriculture.

The Commissioner of Agriculture shall, during the grain-marketing season, appoint such deputy inspectors as he deems necessary to visit the grain-growing districts for the purpose of investigating grain grading, dockage, and weighing, and enforcing the rules and regulations laid down by the Commissioner.

**3-212. Copies of grades, rules and regulations to be furnished warehousemen—display of same.** It shall be the duty of the Commissioner of Agriculture immediately after the establishment of such grades, and the promulgation of rules and regulations fixing dockage, as herein provided, to supply all public warehousemen which the records of his office show are then or thereafter engaged in operating such warehouses, with a copy of such grades, rules and regulations. It shall be the duty of every public warehouseman to keep such copy on file in a convenient place in every such warehouse, and if an office is maintained in connection with such warehouse, a copy of such grades, rules and regulations shall be kept on file in such office, and a placard notice posted in a conspicuous place in every such warehouse and such office, reading as follows: "A copy of Montana grades, rules and regulations is on file here for information of interested parties."

Every such warehouseman shall exhibit such copy of grades, rules and regulations to any interested party applying therefor at any such warehouse or office, and permit such interested party to examine and consult such copy.

**3-213. Fees for inspection and weighing grain.** The Commissioner of Agriculture shall fix the fees for inspection and weighing of grain, and such fees shall be a lien upon such grain until paid.

No Commercial Laboratory for public service shall certify to the grade or protein content of grain unless such Commercial Laboratory is licensed by the Commissioner of Agriculture under such rules and regulations as he may prescribe.

**3-214. Records of weighing and grading certificate.** The inspectors, samplers and weighers shall, at places provided for state inspection, have exclusive control of the weighing and grading of grain to be inspected, and the certificates of such officers relative to such weighing and grading, shall be conclusive upon all parties interested. Suitable books and records shall be kept, in which shall be entered a faithful and true record of every carload or truckload of grain inspected or weighed by them, and showing the number of and initial or other designation of the car or truck containing such load, its weight, the kind of grain and its grade, and if graded below standard No. 1 grade, the reason for such grade, the amount of dockage, the amount of fees and forfeitures and disposition of the same. For each car or truckload of grain the inspector shall give a certificate of inspection, showing the kind and grade of the same and the reason for all grades below No. 1, and the amount to be allowed for dockage, if any. For each car or truckload weighed the weigher shall give a weight



certificate showing the true weight thereof, and containing a statement showing the condition of the car or truck and evidences of leakage or damage, if any. Such inspection and weight certificates shall be made available to the warehouse loading or unloading the grain, the shipper or his agent, and the railroad company, or other carrier over which the grain was shipped or carried; provided, however, that nothing in this section shall be construed to require grading or weighing by state inspectors and weighers of local deliveries of grains in trucks by the producers thereof. Inspectors and weighers shall also keep a true record of all appeals, decisions, and a complete record of every official act, which books and records shall be open to inspection by any party in interest.

**3-215. Removal of inspectors, samplers or weighers for misconduct.** Upon written complaint filed with the Commissioner of Agriculture, charging an inspector, sampler, or weigher with official misconduct, inefficiency, incompetency, or neglect of duty, the Commissioner of Agriculture shall investigate such charges, and if it be found sustained, shall remove such officer.

**3-216. Appeals to Commissioner of Agriculture — hearing and order.** In case any owner, consignee, or shipper of grain, or any warehouseman, shall be aggrieved at the grading of such commodity, such aggrieved persons may appeal to the Commissioner of Agriculture from such decision within ten days from the date of certificate, by giving notice of appeal and paying a fee to be fixed by the Commissioner of Agriculture, which shall be refunded if the decision appealed from is sustained. Such notice of appeal may be given by letter or notice to the Commissioner of Agriculture, stating that such party appeals from the decision of the inspector, and specifying the initials and numbers of the cars in which such grain was contained when inspected and graded.

The appellant shall also file with the Commissioner of Agriculture a list containing the names and addresses of all parties interested in the subject matter. It shall be the duty of the Commissioner of Agriculture, upon receiving such notice and list of interested parties, to immediately notify the parties interested of the time and place designated by him for a hearing, and at such time and place, which shall be five days from the date of receiving such notice, hold a hearing and inquire into the reasonableness and correctness of such original grading, and such evidence shall be received as parties thereto may desire to offer. After such hearing, the Commissioner of Agriculture shall make such order affirming or modifying the grade so established by the inspector, as the facts and evidence may justify.

**3-217. Discrimination in charges by warehousemen prohibited.** If any public warehouseman subject to the provisions of this act shall, directly, or indirectly, by any special charge, rebate, drawback or other device, demand, collect, or receive from any person, or persons, a greater or lesser compensation for any service rendered, or to be rendered, in the handling or storage of grain, than he demands, collects or receives from any other person or persons for a like and contemporaneous service in the handling or storage of grain, under substantially similar circumstances or conditions, or if any such public warehouseman shall make or give any undue or unreasonable pref-



erence or advantage to any person, company or corporation, in any respect whatever, or shall subject any particular person, company, firm, or corporation, to any undue or unreasonable prejudice or disadvantage, in any respect whatsoever, such warehouseman shall be subject to a penalty as herein provided.

**3-218. Duty of warehousemen to receive grain — warehouse receipt.** Every public warehouseman shall receive for storage and shipment without discrimination of any kind, so far as the capacity of his warehouse will permit, all grain tendered him in the usual course of business in suitable conditions for storage. A warehouse receipt, in form prescribed by law and the rules and regulations of the Commissioner of Agriculture, shall be issued and delivered to the owner, or his representative, immediately upon receipt of such load or parcel of grain.

**3-219. Penalty for unlawful issue of warehouse receipt.** It shall be unlawful for any public grain warehouseman to issue a receipt for grain except on the actual delivery of the grain into the warehouse or to issue a warehouse receipt for a greater amount of grain than that actually received.

Any person violating any of the provisions of this section and any grain inspector knowingly permitting any grain to be delivered contrary to the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned in the county jail not less than thirty days nor more than six months.

**3-220. Regulation of sale and storage of grain — identity of grain in general storage.** In cases of grain being sold outright to the warehouseman at the time of delivery or grain placed in store with the warehouseman to be sold at a future time to the warehouseman to whom delivered, settlement shall be made on the basis of grade, quality, protein content and quantity. In cases of storage of grain with intent of future re-delivery of the grain the owner must so designate at time of delivery to enable the warehouseman to special bin. Failure to so designate at time of delivery, the grain will lose its identity in general storage. Therefore, owner agrees to accept quantity of like grade, kind and quality (as provided for under the United States Federal Grain Standards Act) from warehouseman's general storage.

**3-221. Kind and quality of grain to be delivered on return of receipt.** Upon the return of the receipt to the proper warehouseman, properly endorsed, and upon payment or tender of all advances and legal charges, grain of grade agreed upon, of equal quality or value and quantity equal to that placed by him in store shall be delivered to the holder of such receipt within forty-eight hours after the facilities for receiving the same have been provided, or at the option of the owner such warehouseman shall deliver such grain at terminal, or if mutually agreed, the equivalent market value thereof on said date, less any freight and storage charges to terminal, and such other charges as may be allowed by the Commissioner of Agriculture. Owners of warehouse receipts surrendered for shipment shall furnish the warehouseman with written instructions regarding the capacity of cars to be ordered from the transportation com-

pany, and as to the manner of loading and billing shipments made in such cars as are furnished by the transportation company. The warehouseman shall load and bill all such shipments in exact accordance with instructions given, and shall be liable to the owner of the warehouse receipt so surrendered for the amount of any excess freight paid, or for other damages suffered by the owner of the warehouse receipt, resulting from the failure of the warehouseman to follow accurately the loading and billing instructions as given him, provided that the owner of said warehouse receipt shall immediately furnish to said warehouseman a duplicate copy of the original state weightmaster's certificate of weight of said carlot shipment at terminal.

**3-222. Dispute as to grade or dockage—Laboratory test to be made.** If any dispute or disagreement arises between the party receiving and the party delivering the grain at any public warehouse in this State as to the proper grade or dockage, or both, of any grain, in accordance with standards at terminal points, an agreed average sample of at least one quart of said grain in dispute may be taken by the parties interested, and forwarded in an air-tight tin container duly marked for identification by the interested parties, mail or express charges prepaid, with the names and addresses of the parties, to the Chief Grain Inspector, Great Falls, Montana, or any State laboratory whose chief inspector has been qualified by the United States Department of Agriculture to grade grain, and make laboratory tests for protein, who will, upon request, examine said grain and adjudge what grade said sample is entitled to under the inspection rules and which amount of dockage it contains, and the findings of such inspection shall be binding upon both parties, subject to appeal, as hereinafter provided. If the grain in question is damp, musty, or otherwise out of condition, this fact, with any other necessary information, must accompany sample.

**3-223. Date of termination of storage contracts evidenced by warehouse receipts.** All storage contracts on grain in store in public local grain warehouses, as evidenced by a warehouse receipt, shall terminate on June 30th of each year.

**3-224. Termination of storage contract — sale of grain for charges.** Storage on any or all grain may be terminated by the owner at any time before the date mentioned herein by the payment or tender of all legal charges and the surrender of the storage receipt, together with a demand for delivery of such grain, or notice to warehouseman to sell the same. In the absence of a demand for delivery, order to sell, or mutual agreement for the renewal of the storage contract entered into prior to the expiration of the storage contract, as prescribed in this act, the warehouseman shall, upon the expiration of the storage contract, sell so much of such stored grain at the local market price on the close of business on said day as is sufficient to pay the accrued storage charges, and shall thereupon issue new storage tickets for the balance of the grain to the owner thereof upon surrender by him of the original storage receipts. Provided, further, that it shall be the duty of the warehouseman on the first day of June of each year to notice all storage ticket holders at their last known address of the provisions of this act.



**3-225. Disposal of grain without notice to Department of Agriculture and compliance with law forbidden—delivery of grain for warehouse receipts.** No such warehouseman shall sell or otherwise dispose of, or deliver out of store, except to the owner, any stored grain, except upon notice, in advance, to the Department of Agriculture, and after complying in full with the laws of the State and the regulations of the Department of Agriculture relating to the handling of stored grain. Any person, firm, association or corporation owning or operating more than one public warehouse in this State shall be permitted to make delivery of wheat from one warehouse in settlement of warehouse receipts issued for grain stored in another warehouse, when grain for storage has been presented at any warehouse in excess of its available storage capacity. Provided, that this shall not be construed as conferring upon such warehouseman a right to make delivery of grain of substantially lower value than that delivered for store though of the same technical grade, in settlement of warehouse receipts; and provided further, that such warehouseman shall, at all times, keep on hand in bonded warehouses grain of quality and quantity sufficient to settle all outstanding storage receipts. Provided, further, that freight and other charges shall be figured on the basis of the point of receipt.

**3-226. Possession by warehouseman considered bailment, when — prior right of warehouse receipt holder to grain.** Whenever any grain shall be delivered to any person, association, firm or corporation doing a grain warehouse or grain elevator business in this State, and the receipt issued therefor provides for the delivery of a like amount and kind, grade and quality to the holder thereof in return, such delivery shall be a bailment and not a sale of the grain so delivered, and in no case shall the grain so stored be liable to seizure upon process of any court in an action against such bailee, except action by owners of such warehouse receipts to enforce the terms thereof, but such grain shall at all times in the event of failure or insolvency of such bailee be first applied exclusively to the redemption of outstanding storage warehouse receipts for grain so stored with such bailee, and in such event grain on hand in any particular warehouse or elevator shall first be applied to the redemption and satisfaction of receipts issued by such warehouse.

**3-227. Annual report of warehouseman, track buyer and grain dealer — special reports — penalty for failure to report.** On June 30th of each year every warehouseman, track buyer and grain dealer shall make report, under oath to the Commissioner of Agriculture, on blanks or forms prepared by him showing the total weight of each kind of grain received and shipped from or by such warehouseman, track buyer and licensed grain dealer under the laws of Montana, and also the amount of outstanding storage receipts on said date, and a statement of the amount of grain on hand to cover the same. The Commissioner of Agriculture may also require special reports from such warehousemen, grain dealer or track buyer at such times as the Commissioner may deem expedient. The Commissioner may cause the business of every warehouseman, track buyer and grain dealer and the mode of conducting the same to be inspected by his authorized agent, whenever deemed proper, and the books, accounts, records, papers and proceedings of every such warehouseman, track buyer and

**grain dealer** shall at all times during business hours be subject to such inspection. Any person, firm, or corporation, who shall knowingly falsify any of its reports to the Department of Agriculture, or who shall refuse or fail to make such reports when requested to do so by the Commissioner of Agriculture or his agents, or who shall refuse or resist inspection as provided in this section, shall be guilty of a misdemeanor and be punished by a fine of not less than **three hundred dollars (\$300.00)**, nor more than five hundred dollars (\$500.00).

**3-228. Bond — license and fees of warehouseman, track buyer, grain dealer and others — penalty for operating without a license.** Each person, firm, corporation or association or persons operating any public warehouse or warehouses subject to the provisions of this act, and every track buyer, **grain dealer**, broker, or commission man, or person or association of persons, merchandising in grain shall, on or before the first day of July of each year, give a bond executed by a corporate surety authorized to do business in the State of Montana to the State of Montana, in such sum as the Commissioner may require, conditioned upon the faithful performance of the acts and duties enjoined upon them by Section 3-229, Revised Codes of Montana, 1947, **provided however, that where a truck, tractor-trailer owner or operator purchasing grain in Montana for the first time for cash or by certified check, the bond provided for in this act shall not be required.**

Every person or persons, firm, co-partnership, corporation or association of persons, operating any public warehouse or warehouses, and every track buyer, **grain dealer**, broker, commission man, person or association of persons merchandising grain in the State of Montana, shall, on or before the first day of July of each year, pay to the State treasurer of Montana a license fee in the sum of fifteen dollars (\$15.00) for each and every warehouse, elevator, **truck, tractor-trailer unit**, or other place, owned, conducted, or operated by such person or persons, firm, co-partnership, corporation or association of persons, where **or in which** grain is received, stored and **or** shipped, and upon the payment of such fee of fifteen dollars (\$15.00) for each and every warehouse, elevator, **truck, tractor-trailer unit**, or other place, where **or in which** grain is merchandised within the State of Montana, the Commissioner of Agriculture shall issue to such person or persons, firm, co-partnership, corporation or association of persons, a license to engage in grain merchandising at the place **or with the licensed units** designated within the State of Montana, for a period of one (1) year **save only that a public warehouseman shall be permitted to deliver grain previously stored with him, and save further that a producer may be permitted to deliver his own grain. And save further that a producer may buy and haul grain for his own use and that of his neighbors in his community, and save further that the operator of a feed lot in the State of Montana may buy and haul grain for use on his own lot.** Any person, firm, association or corporation who shall engage in or carry on any business or occupation for which a license is required by this act without first having procured a license therefor, or who shall continue to engage in or carry on any such business or occupation after such license has been revoked, shall be deemed guilty of a misdemeanor, and upon conviction



thereof, shall be fined not less than **three hundred dollars (\$300.00)** nor more than **five hundred dollars (\$500.00)**, and each and every day that such business or occupation is so carried on or engaged in shall be a separate offense.

In addition to the bond and license fee, a public warehouseman shall carry adequate insurance approved by the Commissioner of Agriculture to protect the holders of warehouse receipts from loss. A public warehouseman license shall not be issued or may be revoked for failure to comply with this insurance requirement.

**3-229. Protection of holders of warehouse receipts by intervention of Department of Agriculture — authority of department — action on bond — attorney general and county attorneys to assist.** Whenever any warehouseman, grain dealer, track buyer, broker, agent or commission man is found to be in a position where he cannot or where there is a probability that he will not meet in full all storage obligations or other obligations resulting from the delivery of grains, it shall be the duty of the Department of Agriculture, through the Division of Grain Standards, to intervene in the interests of the holders of warehouse receipts or other evidences of delivery of grain for which payment has not been made, and the Department of Agriculture shall have authority to do any and all things lawful and needful for the protection of the interests of the holders of warehouse receipts or other evidences of the delivery of grain for which payment has not been made, and when examination by the Department of Agriculture shall disclose that for any reason it is impossible for any warehouseman, grain dealer, track buyer, broker, agent or commission man to settle in full for all outstanding warehouse receipts or other evidences of delivery of grain for which payment has not been made, without having recourse upon the bond filed by said warehouseman, grain dealer, track buyer, broker, agent or commission man, it shall then be the duty of the Department of Agriculture for the use and benefit of holders of such unpaid warehouse receipts or other evidences of the delivery of grain for which payment has not been made, to demand payment of its undertaking by the surety upon the bond in such amount as may be necessary for full settlement of warehouse receipts or other evidences of delivery of grain for which payment has not been made. It shall be the duty of the Attorney General or any County Attorney of this State to represent the Department of Agriculture in any necessary action against such bond when facts constituting grounds for action are laid before him by the Department of Agriculture.

**3-230. Special inspection of grain.** In case grain is sold for delivery on Montana grade to be shipped from places not provided with State inspection under this act, the buyer, seller, or person making the delivery may have it inspected out by notifying an inspector whose duty it shall be to have such grain inspected, and after it is inspected, to issue to the buyer, seller, or person delivering it, on request, an inspector's certificate showing the grade of such grain. The person or persons calling for such inspection shall pay for the same a reasonable fee, to be fixed by the Commissioner of Agriculture.

Grain that is shipped to points within the State where no inspection is maintained may be inspected



on request of either the buyer or seller, and a certificate may be issued showing the grade of such grain. The charge for such service shall at least equal the entire cost thereof, and shall be paid by the party calling for the same.

**3-231. Sampling grain.** From all grain shipped to terminal warehouses, and from all grain inspected or weighed, samples may be drawn, which samples shall become the property of the State, and subject to disposition by the Commissioner of Agriculture, under such rules and regulations as the Commissioner may prescribe.

It shall be the duty of the Commissioner of Agriculture to transmit samples of grain, showing the standards thereof adopted, to such chambers of commerce, boards of trade, exporters and persons, firms, corporations, or associations handling and dealing in grain as the Commissioner may designate, and upon request he shall furnish such samples to smaller parties in this State or the United States, under such reasonable rules and regulations as the Commissioner may prescribe.

**3-232. Examination of grain cars at destination—license of grain weighers.** All inspectors, samplers and weighers, before opening the doors of any car containing grain, upon arrival at any of the places designated by the Commissioner of Agriculture for inspection, shall first ascertain the condition of such cars, and determine whether any leakages have occurred while said cars were in transit, whether or not the doors were properly secured and sealed at point of shipment, and shall make a record of such facts in all cases, giving seal numbers.

After such examinations have been made, the State official shall securely close and re-seal such doors as have been opened by them using the special seal of the Commissioner of Agriculture for the purpose.

A record of all original seals broken by said officials and the date when broken, and also a record number of said seals shall be made by them. An inspector, weigher, or sampler shall break the seal, weigh and superintend the unloading of all cars of grain subject to inspection, and it shall be unlawful for any other person, or persons, to break the seal or weigh such cars of grain.

The Commissioner of Agriculture shall have the power to require all persons, firms, corporations, or warehousemen engaged in weighing grain within the State of Montana to obtain a license, and prescribe rules and regulations governing the application for and the issuance of such licenses, but no fee shall be charged therefor, and any person, firm, corporation, or warehouseman, who shall weigh any grain without first having obtained said license, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00).

All fees, licenses, and other charges collected under the provisions of this act shall be, by the person collecting the same, paid to the State Treasurer of the State of Montana, and by said Treasurer placed in the general fund.

**3-233. Fees—disposition.** All fees and other charges authorized by law to be fixed by the Commissioner

of Agriculture for the inspection, grading, weighing and protein-testing of grain shall be by said Commissioner kept as near the actual cost of such services as is possible. All such fees and charges shall be paid to the Commissioner and by him deposited with the State Treasurer. The State Treasurer shall place five per cent (5%) of all such fees and charges in the general fund and ninety-five per cent (95%) of all such fees and charges in the earmarked revenue fund. Fees deposited in the earmarked revenue fund may be used to pay all claims for expense incurred in inspecting, grading, weighing and protein-testing of grain, when such claims have been approved as provided by law. No funds of the State shall be used by the Commissioner in carrying out such services, except moneys presently appropriated.

**3-510. Fees for protein tests—disposal of proceeds.** The Commissioner of Agriculture shall fix the fees for testing grain for protein content, and such fees shall be collected by the analyst when tests are made, and remitted to the Commissioner of Agriculture once each month, and deposited with the State Treasurer in the earmarked revenue fund.

**3-511. Powers of Commissioner of Agriculture.** The Commissioner of Agriculture shall be vested with full and complete power to carry out the provisions of this act, and in addition to such general powers hereby conferred he shall have the following express powers:

(a) To open each laboratory for operation only such years as, in his discretion, marketing conditions require a knowledge of the protein content, to enable the owners of grain to obtain the full market value thereof.

(b) To make and promulgate such rules and regulations not inconsistent herewith, as may be necessary or desirable to carry out effectively the purpose of this act.

(c) He shall have full power to set up the necessary machinery to make effective the provisions of this act such as the purchase of supplies, printing stationery and equipment and the appointment of clerical help and assistance all of which expense shall be audited and paid as part of the general expense of the administration of this act.

**3-512. Protein test to be made of all wheat delivered grain warehousemen — manner of making test — result — fee.** Each public grain warehouseman as defined by the laws of the State shall take a sample from each load of wheat delivered to his warehouse and preserve such sample in an air-tight container with the owner's name thereon. As hauling is completed by each owner the several samples taken from all the loads of any one owner shall be mixed thoroughly together, except that high, medium, or low protein wheat from the same owner or wheat of different types, varieties or grades shall be segregated and separate containers provided for each. A one pint portion of the composite sample shall be submitted to the State grain laboratory at Great Falls or Bozeman and the balance shall be held in the owner's container. In the event of dissatisfaction on the part of the warehouseman or owner either party shall have the right to a final appeal to the State laboratory.



In case of an appeal a one pint portion of the remainder of the owner's sample shall again be submitted to the State laboratory with a statement of facts of the appeal and a final test in duplicate shall be made by the laboratory. The certificate of the State laboratory of such test shall be final and binding upon both parties in establishing the basis of the price paid by the warehouseman. A fee of fifty cents (\$0.50), for each protein test may be made, to be deducted and paid at the time of final settlement; provided, however, upon written request of owner, no protein test need be made upon said owner's wheat.

**3-513. Penalty for violation.** Any person, firm, or corporation violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than three hundred dollars (\$300.00) and not more than five hundred dollars (\$500.00) for each offense.

**94-35-270. Delivery of grain containing toxic chemicals to public warehouses.** It shall be unlawful for any person, firm, corporation or association, to deliver to any public warehouse, any grain in bulk, if such grain contains toxic chemicals, providing such person, firm, corporation or association knew, or upon the exercise of reasonable diligence, could have known of the presence of toxic chemicals in the grain.

**94-35-271. Penalty for violation.** Any person, firm, corporation or association violating the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars (\$500.00) and not less than two hundred fifty dollars (\$250.00) or be imprisoned for not more than six (6) months and not less than thirty (30) days, or both.

**94-35-271.1. Coloration of wheat, oats, rye or barley treated with injurious or toxic substances.** Any wheat, oats, rye or barley treated with any injurious or toxic substance or chemical shall at the same time be colored or dyed a color contrasting with the natural color of such wheat, oats, rye or barley, so that the treated wheat, oats, rye or barley is readily identifiable as having been treated with an injurious or toxic substance or chemical.

**94-35-271.2. Sale or offering for sale product in violation of act prohibited.** No person, firm, corporation or association shall sell or offer for sale, any wheat, oats, rye or barley which has been treated with any injurious or toxic substance or chemical unless the wheat, oats, rye or barley has been colored or dyed a color contrasting with the natural color of the wheat, oats, rye or barley. This act shall not apply to the treatment of any wheat, oats, rye or barley which solely is for the killing of insects which might be present therein. Provided, however, that if such treatment uses any injurious or toxic substance for the killing of insects, then such grain must be colored or dyed as hereinabove provided if offered for sale.

**94-35-271.3. Violation constitutes misdemeanor.** Any person, firm, corporation or association violating any of the provisions of this act shall be guilty of a misdemeanor.

# REGULATIONS OF THE COMMISSIONER OF AGRICULTURE UNDER THE MONTANA PUBLIC GRAIN WAREHOUSE ACT

Authorized under Sections 3-110, 3-218, 3-225, R. C. M., 1947.

1. **Bond.** Every public warehouseman, grain dealer, or other agent (as required by Section 3-228) must give a bond before July 1 each year in such sum as the Commissioner may require. Such bond will not be approved by the Commissioner of Agriculture unless it is a regular surety bond written on a form furnished by the Department of Agriculture, and countersigned by a duly licensed resident agent of Montana. The applicant, whenever requested to do so, shall submit with his application a certified financial statement of his business.

2. **Apportionment of storage space.** Public warehousemen shall not be compelled to accept and hold grain for storage in such quantities as to block his regular cash grain business, and for the purpose of administration of the section of the law which requires public warehousemen to accept grain for storage, (Section 3-218) public warehousemen shall not be required to accept grain for storage in excess of three-fourths of the capacity of such warehouse, nor shall any warehouseman be permitted to withhold more than one-fourth of the capacity of such warehouse as necessary for work room, provided, however, that this apportionment of space may be modified on order from the Commissioner of Agriculture or his authorized agent upon a showing that such apportionment operates to the disadvantage and hardship of either the public or the warehouseman.

3. **Stored grain defined.** Stored grain is hereby defined as grain not actually purchased; that is delivered to an elevator or public warehouse and mixed with other grain so that the identity of the different lots is not preserved, or placed in special bin for storage by agreement between warehouseman and owner.

4. **Warehouse receipt to be issued.** All warehousemen are required to issue each day a warehouse receipt for each lot of grain received for storage or make payment for grain purchased. All grain received from one owner during any one day may be construed as a single lot. A scale ticket shall be issued for each load of grain received by the warehouseman and scale tickets must not be issued or held in lieu of such warehouse receipts and the retention of scale tickets in lieu of warehouse receipts by the owner of the grain is at the owner's risk. There shall be plainly printed across the face of such scale tickets issued by a warehouseman in bold type the words **"THIS IS NOT A WAREHOUSE RECEIPT BUT SHALL BE EXCHANGED THE SAME DAY FOR A WAREHOUSE RECEIPT IF GRAIN IS HELD IN STORAGE."** When such scale tickets are in this manner exchanged for such warehouse receipts the scale tickets shall be surrendered to the warehouseman and there shall be plainly noted upon the face of the warehouse receipt the fact that it was



issued in lieu of scale tickets and the numbers of the scale tickets or other evidence of such scale ticket numbers must be noted on the warehouse receipt.

**5. Public grain warehouse receipt form.** Unless copies of the grain warehouse receipt currently used are on file with this department each application for a Public Grain Warehouse License must be accompanied by two copies of the warehouse receipt form to be issued by said warehouseman. One copy is to be filed in the office of the Grain Division of the Department of Agriculture and the other to be returned to the warehouseman with approval or correction. When warehouse receipts are made out upon duplicate or triplicate forms the original copy shall be the warehouse receipt and shall be given to the person storing the grain covered by such receipt and the other copies shall have plainly printed across the face the words "Duplicate" or "Triplicate" and "Not-Negotiable." Each warehouse receipt issued must show the amount of any cash or the value of any merchandise the warehouseman has advanced on the grain represented by the ticket but such notation shall not be construed as fixing the date of sale of such grain. All warehouse receipts shall be numbered consecutively as issued by each warehouseman.

No Public Grain Warehouse Receipt shall be issued under this act until its form has been approved by the Commissioner of Agriculture, or by such officer of the Department as may be designated by him for the purpose. Each Public Grain Warehouse Receipt issued under this act by a Public Grain Warehouseman shall embody within its written or printed terms:

(a) A statement that the warehouse is operated as a public grain warehouse under license issued by the Department of Agriculture of the State of Montana.

(b) A statement showing whether it is an original or duplicate or triplicate, or other copy.

(c) A statement showing the name of the elevator or public grain warehouse.

(d) A statement showing the name of the city or town where the elevator or public grain warehouse is located.

(e) The date the public grain warehouse receipt is issued.

(f) The number of the public grain warehouse receipt.

(g) A statement that the grain is "Received in Store" from the person or persons, or firm or corporation named.

(h) A statement of the gross weight, tare and net weight in pounds of the load and the gross weight, dockage and net weight of the grain, in bushels, kind of grain, the grade, test weight, and sample report number used for grade and protein analysis. In the case of Spring Wheat, all 60 pound or better test must carry the Heavy Notation included with the grade (abbreviated H D N S or H N S as the case may be).

(i) A statement of the encumbrances, such as cash or other advances.

(j) A statement that unless otherwise indicated on the face thereof, the grain mentioned in the receipt has been stored with grain of the same grade, kind,



and quality (as provided for under the U.S. Federal Grain Standards Act) and a statement that upon the return of the receipt properly endorsed by the person to whose order it was issued and the payment of the proper charges for storing and handling, delivery will be made in accordance with the provisions on the back of the ticket.

(k) A statement that the grain is properly insured for the benefit of the owner.

The above statements must be followed by the name of the elevator or public grain warehouse issuing same and the signature of the agent or manager of the public grain warehouse.

(l) The face of the public warehouse grain receipt shall also provide for other statements and records, such as the scale ticket numbers or the assembly sheet number and the number of the grade and protein certificate used.

(m) The back of the Public Grain Warehouse Receipt shall embody within its written or printed terms a statement of: (1) legal storage and handling charges, (2) delivery provisions, (3) actual delivery of grain provisions, (4) bailment provisions, (5) collection of storage charges provisions, (6) Act of God provisions, (7) non-negotiable provisions as follows:

1. Public warehousemen must collect handling and storage charges as follows:

(a) Not to exceed four cents (4c) per bushel for receiving, elevating, weighing, and immediate delivery on car of the identical grain without mixing. Immediate delivery shall mean that the total period of assemblage and delivery does not exceed seventy-two (72) hours.

(b) Four cents (4c) per bushel for all grains except flax, for receiving, grading, weighing, elevating, insuring, fifteen (15) days or more thereof free storage and delivering to the owner. For flax this charge shall be five cents (5c) per bushel.

(c) Not to exceed five cents (5c) per bushel for cleaning grain at request of owner where there are cleaning facilities, in which case screenings shall be delivered to owner.

(d) The charge for storage shall be: one-thirtieth of one cent per bushel for each day in storage after period of free storage has elapsed.

(e) Twenty-five per cent (25%) reduction from the above charges shall be allowed when the market price of wheat being sold at point of origin at time of sale is less than fifty cents (50c) per bushel.

(f) The schedule of charges for cleaning shall be posted in a conspicuous place where grain is unloaded for cleaning.

Failure on the part of any public warehouseman to comply with the provisions of this act will render the licenses of such warehouseman subject to revocation and cancellation by the Commissioner of Agriculture.

2. Delivery to the holder of receipts shall be as provided by the laws of Montana.

3. This receipt shall be issued only on actual delivery of grain into the warehouse, and shall not be given to cover grain of which the warehouseman is owner.
4. Delivery of grain to warehouseman for storage constitutes bailment and not a sale.
5. This ticket must be returned to the issuing company on or before June 30th after issuance for adjustment and/or renewal according to law.
6. All grain is at owner's risk of loss or damage from the elements, riot, the Act of God, or anything which may in any way have been caused by the act of the holder of this receipt.
7. If receipts are made in duplicate or triplicate form, the original shall be given to the owner of the grain; the duplicate or triplicate retained by the elevator must be marked NON-NEGOTIABLE.

(n) The back of the Public Grain Warehouse Receipt may also provide for endorsements and other statements or records pertinent to accounting or book-keeping data providing that such statements or record do not in any way conflict with any State or Federal law pertaining to public grain warehousing or the grading or testing of grain.

**6. Legal Public Warehouse Grain Receipt.** A legal Public Warehouse Grain Receipt is a receipt issued by a licensed public grain warehouseman on a form containing all the provisions of Regulation 5 and shall not be issued except for grain actually delivered to a public grain warehouse for storage. A warehouse receipt which does not in fact represent grain actually delivered into a Public Grain Warehouse for storage and the origin of which cannot be traced to the actual delivery of the grain represented thereon, is not legal and is of no value under the Montana Public Grain Warehouse Laws. It shall have no claim on grain stored in a public warehouse, and no claim on a public grain warehouseman's bond.

All of the grain stored in any Public Grain Warehouse belongs to the holders of outstanding storage warehouse receipts except that which is in excess of the total of all outstanding storage obligations. An outstanding storage warehouse receipt is defined as a Public Grain Warehouse Receipt that has not been bought in and paid for in full on the basis of grade, quality and quantity by the warehouseman issuing same.

If for convenience the holder of two or more warehouse receipts covering like grain wishes to combine them into a lesser number, the new warehouse receipt or receipts so issued shall state the fact that it was issued in lieu of existing warehouse receipts and the numbers of the warehouse receipts so combined shall be plainly shown; or if any assembly or recapitulation statement is used for the assembly, the number or identification of such assembly sheet shall be shown as reference on the new combined ticket or tickets, such assembly sheet shall be kept on file in the elevator office, and the warehouse receipts so combined shall state across the face "CANCELLED BY NO....." (showing the number of the new warehouse receipt issued in lieu). Warehousemen who are grain growers and conduct such

enterprises separately may receive their own grain and issue grain storage receipts for such grain in the same manner and without discrimination as though the warehouse and grain growing enterprises were of separate ownership, provided however that the warehouseman shall report to the Department of Agriculture all storage receipts issued to himself as grower.

Pursuant to authority vested in me by Section 3-110, R.C.M., 1947, as amended by Chapter 224, Montana Session Laws, 1961, I hereby establish the following Regulation to clarify this act relating to truck and tractor-trailer units classified as "grain dealers."

1. **Licensing** — Any truck or tractor-trailer unit owned, leased or controlled by the "grain dealer," and used in the business of buying grain for shipment or milling, will be licensed by the Department of Agriculture. License will be provided by the Department of Agriculture and the decal, indicating license number will be securely placed on the windshield of the truck or tractor-trailer. Decal license is not transferrable from one vehicle to another. If truck or tractor-trailer unit is sold or otherwise disposed of, the Department of Agriculture will be notified. Each and every truck, tractor-trailer unit will be licensed by payment of a fifteen dollar (\$15.00) fee made payable to the State Treasurer of Montana. License will be renewed on or before the first day of July of each year.
2. **Bonding** — Each person, firm, corporation or association of persons licensed under the provisions of this act shall give a bond with good and sufficient sureties to be approved by the Commissioner of Agriculture, State of Montana, in such sum as the Commissioner may require. Minimum surety bond is hereby set at ten thousand dollars (\$10,000.00).
3. **Warehousemen "Grain Dealer"**—Warehousemen using trucks or tractor-trailer units and buying grain from a producer or other firm must comply with provisions of this act.
7. **Limitation of Rulings.** Nothing in these regulations shall be so construed as to prevent the operation of Section 3-220, governing the collection of storage charges at termination of contract period June 30th of each year.
8. **Mustard Classification.** Cultivated Tame Mustard Seed shall be classified as "grain" when warehoused or marketed commercially for other purposes than "for the purposes of seeding in this State."

Any information pertaining to grading Mustard can be secured by addressing such inquiries either to the Department of Agriculture, Helena, Montana, or the State Grain Inspection Laboratory, Great Falls, Montana.

## REGULATION

**Shipment Stored Grain** to points outside the boundaries of the State of Montana.

For the shipment of stored grain to points outside the boundaries of the State of Montana, the following rules must be followed.



**First:** Receipts or signed agreements from the owners of grain in an amount equal to the number of bushels the warehouseman has in storage outside of the State of Montana, on a form approved by the Department of Agriculture.

**Second:** Warehouse receipts covering grain for storage outside of the State must have printed or stamped on the back thereof the following, "Owner waives redelivery at point of origin of grain represented by this receipt;"

**Third:** Waiver or agreement to accept terminal storage tickets must be made in triplicate, signed by the owner of the grain or storage ticket and by a duly authorized representative of the elevator company or warehouseman, the original to be mailed to the Division of Grain Standards and Marketing of the Department of Agriculture, Helena, Montana; duplicate to be retained by the elevator company or warehouseman and triplicate to be given to the holder of the storage ticket.

**Fourth:** All grain must be held only in bonded and approved warehouses, fully insured for the benefit of the holder of Montana storage tickets, and a warehouse receipt taken for the same;

**Fifth:** All grain held in terminal warehouses must be kept free of all liens, mortgages and encumbrances.

## AGRICULTURAL SEED WAREHOUSES

3-301. **Citation of act — definitions.** This act and the act amended hereby may be referred to and cited as the "act regulating public warehouses for, and buyers of agricultural seeds." In this act, the terms and expressions hereinafter listed shall be given the meaning assigned to them, as follows:

(a) "Agent," "broker" and "commission man" shall be held to mean and include any person, firm, co-partnership or association who engages in the business of negotiating sales or contracts for agricultural seeds or of making sales or purchases of agricultural seeds for a commission;

(b) "Agricultural seeds" shall mean and include the seeds of red clover, white clover, alsike, alfalfa, Kentucky blue grass, timothy, brome grass, orchard grass, redtop, meadow fescue, oatgrass, ryegrass and other grasses and forage plants, corn, rape, buckwheat, beans, peas and registered or certified seed grains in bags;

(c) "Commissioner" shall mean the Commissioner of Agriculture of the State of Montana;

(d) "Public Warehouse," "public warehouse for agricultural seeds" or "public agricultural seed warehouse" shall mean and include any warehouse or structure in which "agricultural seed" is received from the public for storage, assembling or cleaning;

(e) "Seed buyer" shall be held to mean and include any person, firm, co-partnership, corporation or association engaged in the business of buying uncleaned agricultural seed for shipment, cleaning, processing or for resale and who does not own, control or operate a public agricultural seed warehouse;

(f) "Warehouseman" shall be held to mean and include any person, firm, co-partnership, corporation or association owning, controlling or operating a public agricultural seed warehouse.

**3-302. License fee of seed warehousemen—bond—exception.** Every person, firm, co-partnership, corporation or association engaging in the business of agricultural seed warehouseman or holding out to the public as receiving agricultural seeds for storage, or operating any warehouse wherein is received agricultural seeds for storage, at request of members of the public, and every seed buyer, agent, broker or commission man, or buyers on commission, engaging in the merchandising of uncleaned agricultural seed in the State of Montana, shall, on or before the first day of July of each year pay to the treasurer of the State of Montana a license fee in the sum of fifteen dollars (\$15.00) for each and every warehouse or other place of business where agricultural seed is received for purchase, storage or shipment and shall also, on or before such date, file with the Commissioner of Agriculture a good and sufficient bond to the State of Montana in such sum and in such form as the Commissioner may require conditioned upon the faithful performance of the acts and duties enjoined upon any such person, firm, co-partnership, corporation or association by law. The Commissioner may from time to time require additional bond when in his judgment the volume of business of the licensee so requires, under penalty revoking the license. All licenses shall expire on June thirtieth of the year following the year of issuance. Nothing in this section shall apply to a bona fide grower hauling or assembling agricultural seed of his own production, for sale, storage, cleaning, processing or shipment.

**3-303. Penalty for conducting business without license.** Any person, firm, co-partnership, corporation or association who shall engage in or carry on any business or occupation for which a license is required by this act without first having procured a license therefor, or who shall continue to engage in or carry on any such business or occupation after such license has been revoked, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than twenty-five (\$25.00) dollars nor more than one hundred (\$100.00) dollars, and each and every day that such business or occupation is so carried on or engaged in shall be a separate offense.

**3-304. Definitions of "agricultural seeds."** The term "agricultural seeds" as used in this act shall be held to mean and include the seeds of red clover, white clover, alsike, alfalfa, Kentucky bluegrass, timothy, brome-grass, orchard-grass, redtop, meadow fescue, oat-grass, rye-grass, and other grasses and forage plants, corn, rape, buckwheat, beans and peas and registered or certified seed grains in bags.

**3-305. Warehousemen to receive seed for storage without discrimination.** Every warehouseman subject to the provisions of this act shall receive for storage without discrimination of any kind so far as the capacity of his warehouse will permit all agricultural seeds tendered to him in the usual course of business in suitable condition for storage, providing, however, that he shall not be obliged to receive any agricultural seeds other than those which he holds himself out as dealing in and which he is equipped to handle.



**3-306. Rules and regulations may be made by Commissioner of Agriculture—inspections—reports—form of warehouse receipts,** as may be necessary and proper to facilitate the administration thereof, and to insure its application to all persons, firms, co-partnerships and corporations subject to its provisions, and for the proper and safe conduct of the business regulated by this act, in the public interest. The Commissioner is hereby invested with authority to make such inspections of seed warehouses or other places for storage of seed, or for handling the same by licensees hereunder, and of the facilities employed or used in carrying on the business referred to herein, and of agricultural seeds, uncleaned or cleaned, and the containers thereof, and such other inspections, and to take samples of such seeds, as he deems necessary in carrying out this act, and applying and enforcing the same. The Commissioner may require periodic or special reports from said warehousemen, buyers, brokers, commission buyers or agents on forms that may be prescribed by him, in the aid of the administration of this act. The Commissioner shall prescribe the form and contents of warehouse receipts which shall be issued and delivered by warehousemen or seed buyers to the owner of agricultural seeds, or to the owner's representative, upon transfer or receipt of such seed, and no other forms of warehouse receipt shall be issued and delivered by licensees under this act.

**3-307. Storage constitutes bailment.** The storage of agricultural seed under the terms of this act shall constitute a bailment and not a sale and upon the return of the warehouse receipt to the proper warehouseman properly endorsed, and upon payment or tender of all advances and legal charges the holder of such warehouse receipt shall be entitled to, and it shall be compulsory for the warehouseman to deliver to such owner and holder of the warehouse receipt the identical agricultural seed so placed in said warehouse for storage.

**3-308. Additional bond required from grain warehousemen for seed storage.** None of the provisions of this act shall be construed as requiring an additional license from a public warehouseman or other person, corporation or association, who is licensed to handle or store grain, but if any person, firm, co-partnership, corporation or association holding a license to handle or store grain shall also choose to engage in the business of storing any agricultural seed for the public it shall be necessary to furnish such additional bond as the Commissioner of Agriculture shall determine and in the storage of such agricultural seed such person, firm, co-partnership, corporation or association shall be subject to the terms and conditions of this act.

**3-309. Co-operative agencies' authority to store seeds—effect of partial invalidity of act.** Co-operative associations or co-operative corporations when licensed to handle agricultural seeds as herein provided may reserve sufficient storage space to provide for the storage of such agricultural seeds that may reasonably be expected to be tendered for storage by their members before receiving seeds for storage from non-members. If for any reason the preceding part of this section shall be declared invalid, then co-operative associations and co-operative corporations when licensed to handle agricultural seeds shall be subject to the same terms and conditions as others

licensed to handle seeds as in the other parts of this act provided and the remaining parts of this act shall not be affected.

## REGULATIONS OF THE COMMISSIONER OF AGRICULTURE UNDER THE AGRICULTURAL SEED WAREHOUSE ACT

Authorized under Sections 3-306, R.C.M. 1947

1. Whenever the words "public warehouse" are used in the following regulations they shall be held to mean "Agricultural seed public warehouse."

Whenever the words "public warehouseman" are used they shall be held to mean "Agricultural seed public warehouseman."

2. **Bond.** A bond given by a public warehouseman will not be approved by the Commissioner of Agriculture unless such bond is a regular surety bond written on a form provided by the Department of Agriculture, countersigned by a duly licensed resident agent of Montana.

3. **Stored Agricultural Seed.** Stored agricultural seed is hereby defined as agricultural seed not actually purchased; that is delivered to an elevator or public warehouse for storage. An elevator or warehouse that stores agricultural seed for one or more persons is a public warehouse. An elevator or warehouse that takes in agricultural seed for any purpose and such agricultural seed has not been purchased and paid for by the warehouseman is a public warehouse. All such elevators or public warehouses must be licensed to operate under the Montana Public Warehouse Laws.

4. **Warehouse Receipt to Be Issued.** All warehousemen are requested to issue each day a warehouse receipt for each lot of agricultural seed received for storage. All agricultural seed received from one owner during any one day may be construed as a single lot. A scale ticket shall be issued for each load of agricultural seed received by the warehouseman and scale tickets must not be issued or held in lieu of such warehouse receipts and the retention of scale tickets in lieu of warehouse receipts by the owner of the agricultural seeds is at the owner's risk. There shall be plainly printed across the face of such scale tickets issued by the warehouseman in bold type the words **"THIS IS NOT A WAREHOUSE RECEIPT BUT SHALL BE EXCHANGED THE SAME DAY FOR A WAREHOUSE RECEIPT IF AGRICULTURAL SEED IS HELD IN STORAGE."** When such scale tickets are in this manner exchanged for such warehouse receipts the scale tickets shall be surrendered to the warehouseman and there shall be plainly noted upon the face of the warehouse receipt the fact that it was issued in lieu of scale tickets, and the numbers of the scale tickets or other evidence of such scale ticket numbers must be noted on the warehouse receipt.



5. **Public Grain Warehouse Receipt Form.** Unless copies of the grain warehouse receipt currently used are on file with this department each application for a Public Warehouse License must be accompanied by two copies of the warehouse receipt form to be issued by said warehouseman. One copy is to be filed in the office of the Grain Division of Department of Agriculture and the other to be returned to the warehouseman with approval or correction. When warehouse receipts are made out upon duplicate or triplicate forms the original copy shall be the warehouse receipt and shall be given to the person storing the agricultural seed covered by such receipt and the other copies shall have plainly printed across the face the words "Duplicate" or "Triplicate" and "Not-Negotiable." Each warehouse receipt issued must show the amount of any cash or the value of any merchandise the warehouseman has advanced on the agricultural seed represented by the ticket but such notation shall not be construed as fixing the date of sale of such agricultural seed. All warehouse receipts shall be numbered consecutively as issued by each warehouseman.

No Public Warehouse Receipt shall be issued under this act until its form has been approved by the Commissioner of Agriculture, or by such officer of the Department as may be designed by him for the purpose. Each Public Warehouse Receipt issued under this act by a Public Warehouseman shall embody within its written or printed terms:

(a) A statement that the warehouse is operated as a public agricultural seed warehouse under license issued by the Department of Agriculture of the State of Montana.

(b) A statement showing whether it is an original or duplicate or triplicate, or other copy.

(c) A statement showing the name of the elevator or public agricultural seed warehouse.

(d) A statement showing the name of the city or town where the elevator or public agricultural seed warehouse is located.

(e) The date the public agricultural seed warehouse receipt is issued.

(f) The number of the public warehouse receipt.

(g) A statement that the agricultural seed is "Received in Store" from the person or persons, or firm or corporation named.

(h) A statement of the gross weight, tare, and net weight of the load in pounds, and the gross weight, dockage and net weight in pounds, the kind of seed, and the quality—as fancy—good—fair or poor, or other trade designation of grade or quality.

(i) A statement of the encumbrances such as cash or other advances.

(j) A statement that upon the return of the receipt properly endorsed by the person to whose order it was issued and the payment of the proper charges for storing and handling, delivery will be made in accordance with the provisions on the back of the ticket.

(k) A statement that the agricultural seed is properly insured for the benefit of the grower.

The above statements must be followed by the name of the elevator or public warehouse issuing



same and the signature of the agent or manager of the public warehouse.

(l) The face of the public warehouse receipt shall also provide for other statements and records such as the scale ticket numbers, or assembly sheet numbers, and other pertinent accounting or bookkeeping data providing that such statements or records do not in any way conflict with any State or Federal law pertaining to public agricultural seed warehousing.

(m) The back of the public warehouse receipt shall embody within its written or printed terms a statement of:

(1) storage and handling charges, (2) delivery provisions, (3) actual delivery of grain provisions, (4) bailment provisions, (5) collection of storage charges provisions, (6) Act of God provisions, and (7) non-negotiable provisions.

These statements must show:

1. All storage and handling charges.
2. That delivery to the holder of receipts shall be as provided by the laws of Montana.
3. That receipt shall be issued only on actual delivery of agricultural seed into the warehouse, and shall not be given to cover agricultural seed of which the warehouseman is owner.
4. That delivery of agricultural seed to warehouseman for storage constitutes bailment and not a sale.
5. That this ticket must be returned to the issuing company on or before June 30th after issuance for adjustment and/or renewal according to law.
6. That all agricultural seed is at owner's risk of loss or damage from the elements, riot, the Act of God, or anything which may in any way have been caused by the act of the holder of this receipt.
7. That if receipts are made in duplicate or triplicate form, the original shall be given to the owner of the agricultural seed; the duplicate or triplicate retained by the elevator must be marked NON-NEGOTIABLE.

(n) The back of the public warehouse receipt may also provide for endorsements and other statements or records pertinent to accounting or bookkeeping data providing that such statements or records do not in any way conflict with any State or Federal law pertaining to public agricultural seed warehouses.

**6. Legal Agricultural Seed Public Warehouse Receipt.** A legal public warehouse receipt is a receipt issued by a licensed public warehouseman on a form containing all the provisions of Regulation 5 and shall not be issued except for agricultural seed actually delivered to a public warehouse for storage. A warehouse receipt which does not in fact represent agricultural seed actually delivered into a public warehouse for storage and the origin of which cannot be traced to the actual delivery of the agricultural seed represented thereon, is not legal and is of no value under the Montana Public Warehouse Laws. It shall have no claim on agricultural seed stored in a public warehouse, and no claim on public warehouseman's bond.

All of the agricultural seed stored in any public warehouse belongs to the holders of outstanding storage warehouse receipts except that which is in excess of the total of all outstanding storage obligations. An outstanding storage warehouse receipt is defined as a public warehouse receipt that has not been bought in and paid for in full by the warehouseman issuing same.

If for convenience the holder of two or more warehouse receipts covering like seed wishes to combine them into a lesser number, the new warehouse receipt or receipts so issued shall state the fact that it was issued in lieu of existing warehouse receipts and the numbers of the warehouse receipts so combined shall be plainly shown and the warehouse receipts so combined shall state across the face "CANCELLED BY NO....." (showing the number of the new warehouse receipt issued in lieu).

**7. Limitation of Rulings.** Nothing in these regulations shall be so construed as to prevent the operation of Section 3-220, governing the collection of storage charges at termination of contract period June 30th of each year.

## COMMERCIAL MUSTARD SEED

**3-1908. License and bond for persons contracting for purchase of mustard seed — when required.** All persons, firms, co-partnerships, corporations and associations engaging in the business of contracting in advance of harvesting for the purchase of mustard seed crops to be paid for on delivery of said crop or crops, shall, on or before the first day of March of each year, pay to the state treasurer of Montana a license fee in the sum of ten dollars (\$10.00) for the privilege of carrying on such business and shall on or before said first day of March of each year, give a bond with good and sufficient sureties approved by the Commissioner of Agriculture of the State of Montana, in such sum as the Commissioner may require but not less than ten thousand dollars (\$10,000.-00) conditioned upon the payment for such contracted seed at the price or prices specified in such contract, and upon the payment of such license fee of ten dollars (\$10.00) and upon the approval of such bond by the Commissioner of Agriculture, said Commissioner shall issue to such person or persons, firm, co-partnership, corporation or association a license to engage in such business in the State of Montana for a period of one year.

Any person who shall commence the business aforesaid after the first day of March of any year shall be required to pay said license fee and to furnish such bond before engaging in or carrying on such business.

**3-1909. Enforcement.** It is hereby made the duty of the Commissioner of Agriculture to administer and enforce this act, and for that purpose he shall make all necessary and proper rules and regulations.

**3-1910. Disposal of funds.** All funds accruing from license fees shall be deposited by the Commissioner of Agriculture with the state treasurer and shall be credited to the general fund.

**3-1911. Revocation of license—reports.** The Commissioner of Agriculture may revoke for cause any license issued hereunder, and any person, firm, co-

partnership, corporation or association licensed under the provisions of this act shall make a report to the Commissioner of Agriculture whenever he may require the same showing the amount of seed contracted.

3-1912. **Penalty.** Any person, firm, co-partnership, corporation or association who shall engage in or carry on the business of contracting in advance of harvesting for the purchase of mustard seed crops to be paid for on delivery of said crop or crops, without having license therefor shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00), and each and every day that such business is so carried on or engaged in shall constitute a separate offense.



## WHEAT RESEARCH AND MARKETING

3-2901. **Short Title.** This act may be cited as the Montana Wheat Research and Marketing Act.

**History:** En. Sec. 1, Ch. 314, L. 1967.

3-2902. **Declaration of policy.** In the presence of the facts that wheat is the principal grain crop produced in Montana, and as such is an agricultural resource of the first magnitude in the economy of the inhabitants of Montana, a prime factor in the production of wealth and the development and stabilization of property values and of activities and enterprises which are bases and sources of important contributions by taxation to the public revenues, and that Montana wheat is a commodity which enters a world market highly competitive in character, it is hereby declared to be the public policy of the State of Montana to protect and foster the health, prosperity and general welfare of its people by encouraging and promoting intensive, scientific and practical research into all phases of wheat culture and production, marketing and use and into the development of markets for wheat grown in Montana by the Department of Agriculture of the State of Montana and the division of wheat research therein as constituted by this act.

**History:** En. Sec. 2, Ch. 314, L. 1967.

3-2903. **Creation of wheat research and marketing division—appointment of division chief—powers and duties exercised by administrative committee.** (1) There is hereby established a division of wheat research and marketing in the Department of Agriculture of the State of Montana. The division shall consist of:

- (a) the appointive administrative committee herein provided for,
- (b) the Commissioner of Agriculture, ex officio, and
- (c) a chief executive officer of the division who shall be known as the chief of the division of wheat research and marketing.

(2) The Commissioner of the Department of Agriculture, acting with the advice and consent of the appointive administrative committee, shall appoint the chief of the division of wheat research and marketing, and subordinate secretarial and clerical assistance.

(3) No researchers or professional or scientific personnel may be employed to carry out the provisions of this act except as provided in section 3-2918.

(4) The other powers prescribed by this act for the division are hereby placed in and may be exercised by the administrative committee; the duties prescribed by this act shall be carried out by the administrative committee and it shall have the general supervision of all activities and personnel, but it may delegate details of supervision and administration to the chief of the division of wheat research and marketing, or to the Commissioner of Agriculture.

3-2904. **Definitions.** As used in this act, unless the context otherwise requires:

(1) "Committee" means the administrative committee hereby established to be known as the Montana wheat research and marketing committee;

(2) "Grower" means any landowner personally engaged in growing wheat, a tenant of the landowner personally engaged in growing wheat, or both the owner and the tenant jointly; and includes a person, partnership, association, corporation, co-operative, trust, sharecropper, and any and all other business units, devices, and arrangements;

(3) "First purchaser" means any person, public or private corporation, association, or partnership, buying, accepting for shipment, or otherwise acquiring the property in or to wheat from a grower, and shall include a mortgagee, pledgee, lienor, or other person, public or private, having a claim against the grower, where the actual or constructive possession of such wheat is taken as part payment or in satisfaction of such mortgage, pledge, lien, or claim;

(4) "Commercial channels" means the sale of wheat for any use, when sold to any commercial buyer, dealer, processor, co-operative, or to any person, public or private, who resells any wheat or product produced from wheat; and

(5) "Sale" includes any pledge or mortgage of wheat, after harvest, to any person, public or private.

History: En. Sec. 4, Ch. 314, L. 1967.

**3-2905. Governor to appoint administrative committee—duties—composition—districts—nominees—term of office—political affiliations.** (1) The governor of the State of Montana shall appoint an administrative committee to be known as the Montana wheat research and marketing committee, which committee shall:

- (a) advise and direct the chief executive officer of the division of wheat research and marketing; and
- (b) be primarily responsible for the enforcement and application of this act; and
- (c) be responsible for conducting basic researches and market development and other programs of the division and its objectives as herein stated.

(2) The administrative committee shall be composed of:

- (a) seven (7) members each of whom is a citizen of Montana, and each of whom derives a substantial portion of his income from growing wheat in Montana,
- (b) three (3) ex officio members (who shall not vote upon any decisions, orders or regulations of the administrative committee):
  - (i) the Commissioner of the Department of Agriculture,
  - (ii) the dean of agriculture of Montana state university,
  - (iii) a representative of the grain trade in Montana who is elected by majority vote

of the seven (7) appointed members of the administrative committee, and who shall serve at the pleasure of the administrative committee.

(3) One member of the administrative committee shall be appointed from each of the following districts, and shall be a resident of, and shall have farming operations in the district from which appointed:

District I. consisting of Daniels, Sheridan and Roosevelt counties.

District II. consisting of Valley, Phillips, Blaine and Hill counties.

District III. consisting of Liberty, Toole, Glacier and Pondera counties.

District IV. consisting of Chouteau and Teton counties.

District V. consisting of Lewis and Clark, Cascade, Judith Basin, Fergus, Petroleum, Meagher, Broadwater, Wheatland, Golden Valley and Musselshell counties.

District VI. consisting of Big Horn, Yellowstone, Stillwater, Carbon, Sweet Grass, Park, Gallatin, Madison, Jefferson, Silver Bow, Beaverhead, and all counties lying west of the continental divide.

District VII. consisting of Garfield, McCone, Rosebud, Richland, Dawson, Wibaux, Prairie, Carter, Custer, Fallon, Powder River and Treasure counties.

(4) A list of nominees for appointment to the administrative committee may be submitted to the governor by the Montana farmers union, Montana farm bureau, Montana grange, and the Montana grain growers association. Each nominee must be from the district for which the appointment will be made. The first list of nominees shall be submitted in less than thirty-one (31) days after the effective date of this act and thereafter names of nominees shall be submitted in less than ninety-one (91) days prior to the expiration of any committeeman's term.

(5) Committee members shall be appointed for a term of five (5) years, except that the terms of office of the committee members first appointed shall be as follows:

District I for four (4) years;

District II for five (5) years;

District III for five (5) years;

District IV for one (1) year;

District V for two (2) years;

District VI for four (4) years;

District VII for three (3) years.

(6) No more than four (4) appointed members of the committee may be of the same political party. Members appointed to fill unexpired terms shall be appointed for the remainder of the unexpired term.

History: En. Sec. 5, Ch. 314, L. 1967.

Cross-Reference

Effective date of this act, sec. 3-2920.



**3-2906. Compensation—per diem.** Members of the administrative committee shall receive no salary, but shall be paid, from the wheat research and marketing account in the revolving fund, a per diem of twenty dollars (\$20.00) for each day they are actually and necessarily engaged in the transaction of official business under this act, together with their actual and necessary expenses incurred while on official business.

**History:** En. Sec. 6, Ch. 314, L. 1967.

**3-2907. Removal from office — cause — procedure.** Any member of the administrative committee shall be removable by the governor for malfeasance, misfeasance or neglect of duty. No removal proceedings may be entertained or prosecuted except upon written charges, duly verified. The member shall first be given a copy of the written charges against him upon any one or more of said grounds at least ten (10) days in advance of any hearing upon the charges, and the member shall be accorded a full and fair public hearing before the governor with right to counsel and to witnesses in his behalf. Any member of the administrative committee:

- (1) ceasing to be a resident of the State of Montana,
- (2) ceasing to live in the district from which he was appointed, or
- (3) ceasing to be actually engaged in growing wheat in said State or district,

shall be automatically disqualified from continuing as a member by the happening of any one or more of such events. If the member refuses to recognize his disqualification, the refusal shall constitute cause for removal, and his office as committee member shall become vacant.

**History:** En. Sec. 7, Ch. 314, L. 1967.

**3-2908. Election of chairman — time of meetings.** At the first meeting of the administrative committee, it shall elect a chairman from among its members. The committee shall meet at least once every three (3) months and at such other times as called by the chairman or by any three (3) members of the committee.

**History:** En. Sec. 8, Ch. 314, L. 1967.

**3-2909. Powers of administrative committee.** The administrative committee shall have the power to:

- (1) Adopt rules and regulations as are necessary and advisable to effect efficient administration of this act;
- (2) Promptly and effectively to enforce the provisions of this act; and
- (3) To conduct adequate, intensive and timely research into the production, marketing and uses of wheat in all phases and relationships.
- (4) Enter into written contracts or agreements with recognized research agencies, public or private, within or without the State of Montana, for the purposes of, but not limited to, improving wheat quality, increasing the efficiency of production, developing marketing knowledge, developing markets and determining new uses for wheat and developing alternative crops for wheat.

None of the duties, authorities and powers set forth in this act and delegated to the administrative committee shall be construed to mean or permit participation in State or Federal political action.

History: En. Sec. 9, Ch. 314, L. 1967.

**3-2910. Establishment of administrative office—expense.** The Department of Agriculture shall upon recommendation of the administrative committee, establish an administrative office in the State of Montana at such place as may be suitable for the efficient administration of this act; the expense of staffing and maintaining the same to be an expense of administration under this act.

History: En. Sec. 10, Ch. 314, L. 1967.

**3-2911. Annual assessment on wheat grown.** There is hereby levied an annual assessment of two and one-half (2½) mills per bushel upon all wheat grown in the State of Montana, and sold through commercial channels beginning August 20, 1967. The assessment is hereby levied and imposed on each grower of wheat in the State of Montana unless a grower or his agent at the time of transaction shall request in writing that no assessment be made:

- (1) in the case of sale of wheat, at the time of any sale of wheat by a grower, and shall be collected by the first purchaser of the wheat from the grower at the time of each settlement for wheat purchased, or
- (2) in the case of a pledge or mortgage of wheat as security for a loan under any Federal price support program, the assessment shall be collected by deducting the amount thereof from the proceeds of such loan at the time the loan is made by the agency or person making the loan.

The assessment levied under the provisions of this act, shall be deducted and collected as provided by this act, whether such wheat is stored in this or any other state. The assessment shall attach to each transaction, but no grower shall be subject to assessment more than once irrespective of the number of times it shall be the subject of a sale, pledge, mortgage or other transaction, the assessment being imposed and attaching on the initial sale, pledge, mortgage or other transaction in which the wheat grower parts with title to the wheat, or creates some interest therein in a pledgee, mortgagee or other person.

History: En. Sec. 11, Ch. 314, L. 1967.

**3-2912. Sale of wheat to federal government — inapplicability of assessment.** The assessment herein levied and imposed by the provisions of this act, shall not apply to the sale of wheat to the Federal government, for ultimate use or consumption by the people of the United States, where the State of Montana is prohibited from imposing such tax by the constitution of the United States and valid laws enacted pursuant thereto.

History: En. Sec. 12, Ch. 314, L. 1967.

**3-2913. Buyer's delivery of invoice to grower — form—filing of sworn statement—payment of assessment.** (1) The purchaser of the wheat at the time of settlement therefor on sale, or the pledgee or mortgagee or other lender at the time of its loan or ad-

vance, shall make and deliver separate invoices for each purchase to the grower. Such invoices shall be on forms approved by the administrative committee showing

- (a) the name and address of the grower and seller,
- (b) the name and address of the purchaser or the lender,
- (c) the number of bushels of wheat sold, mortgaged or pledged,
- (d) the date of the purchase, mortgage or pledge and the amount of assessment collected and remitted to the Commissioner of Agriculture.

(2) The purchaser, mortgagee, or pledgee shall deliver to and have on file with the wheat research and marketing division of the Department of Agriculture, on forms prescribed by the division, by the twentieth (20th) day of each calendar month following any calendar month in which purchaser shall purchase wheat of a grower or in which a lender makes any loan or advance on wheat of a grower beginning on August 20 in the year 1967, a sworn statement of the number of bushels of wheat purchased in Montana or the number of bushels mortgaged or pledged, or otherwise transferred or lienied as security for a loan, during the preceding calendar month. At the time the sworn statement is filed, the purchaser or lender shall pay and remit to the Commissioner the assessment provided for in this act for deposit in the wheat research and marketing account in the revolving fund.

(3) The statement referred to in subsection (1) [2] of this section, shall be legibly written and shall be entirely free of any corrections or erasures on the face thereof. Any person who shall alter any part of any statement shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as is provided herein.

History: En. Sec. 13, Ch. 314, L. 1967.

**3-2914. Commissioner to report.** The Commissioner of Agriculture and the chief of the wheat research and marketing division shall report as provided in section 2 [82-4002] of this act.

History: En. Sec. 14, Ch. 314, L. 1967; amd. Sec. 5, Ch. 93, L. 1969.

Amendments: The 1969 amendment rewrote this section which formerly required annual reports.

**3-2915. Receipt of gifts, grants or donations for research purposes.** The Montana wheat research and marketing division is hereby authorized to receive any gifts, grants or donations for any research of scientific inquiries conducted under authority of this act, and to use and expend the same in compliance with the conditions, if any, of such grants, gifts and donations, provided such conditions are valid under the laws of the State of Montana, and in aid of the purposes of this act.

History: En. Sec. 15, Ch. 314, L. 1967.

**3-2916. Official bonds of division chief, deputy or assistant.** The chief of the Montana wheat research and marketing division and any deputy or assistant participating in the handling of assessment receipts or other receipts by or for the division, shall be bonded for the faithful and safe handling and ac-



counting for such receipts while in their hands and for faithful compliance with the provisions of this act.

History: En. Sec. 16, Ch. 314, L. 1967.

**3-2917. Research and marketing revolving account — sources — use — expenditures.** (1) There is hereby established an account in the revolving fund to be known as the wheat research and marketing revolving account. There shall be placed in the account:

- (a) the proceeds of all millage levies made, paid and collected under this act, and
- (b) the proceeds from all gifts, grants or donations to the Department of Agriculture for the use of the researches conducted by the division of wheat research and marketing.

(2) The account shall be maintained for the use of the wheat research and marketing division of the Department of Agriculture and shall be separate and apart from all other accounts of the department.

(3) There shall be transferred to the general fund one per cent (1%) of all the moneys collected.

(4) There shall be paid out of this account claims for expenditures under this act as are approved by the Commissioner of Agriculture and the state controller.

History: En. Sec. 17, Ch. 314, L. 1967.

**3-2918. Contracts for carrying out research.** The Montana wheat research and marketing committee shall not set up research units or agencies of its own but shall co-operate and is hereby empowered to enter into contracts with Montana state university and other lawful and proper local, state, or national organizations, public or private, in carrying out all phases of research and marketing contemplated by this act.

History: En. Sec. 18, Ch. 314, L. 1967.

**3-2919. Violations of act — penalty.** Any person violating any of the provisions of this act shall be guilty of a misdemeanor, and shall, upon conviction, be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00).

History: En. Sec. 19, Ch. 314, L. 1967.

**3-2920. Duration of act — expiration — reversion of remaining funds.** This act shall be in full force and effect from August 20, 1967 for a period of seven (7) years. If this act is not renewed through legislative action to extend beyond seven (7) years, any money remaining that has been collected under this act shall revert to the Montana state university to be used exclusively for wheat research.

History: En. Sec. 21, Ch. 314, L. 1967.

**82-4002 (In Part) Biennial reports by state agencies — contents — public inspection — governor's duties — pamphlets — copies.** (1) Before September 1 of each even-numbered year, each state agency shall submit a written report to the governor of its activities during the immediately preceding fiscal biennium.

(2) Each report shall contain information prescribed by the governor describing fully the activities of the state agency. Reports shall contain recommendations for each state agency for improvements in programs administered by it.

(3) State agency reports shall be filed in the governor's office and are open for inspection by any person.

## MONTANA SEED LAW

### Agricultural, Vegetable & Flower Seeds Chapter 8, Revised Codes of Montana, 1947 With Amendments Effective July 1, 1969

3-802.1. **Definition.** Terms used in this act and not otherwise identified are hereby defined:

(1) Agricultural seeds shall be the seeds of grass, forage, cereal, and fiber crops and any other kinds of seeds commonly recognized within this State as agricultural seeds, and shall include lawn seeds and mixtures of seeds.

(2) Vegetable seeds shall include the seeds of those crops that are or may be grown in gardens or on truck farms and are or may be sold generally under the name of vegetable seeds.

(3) Flower seeds shall include seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts and are commonly known and sold under the name of flower seeds in this State.

(4) (a) The term "weed seeds" shall include the seeds or bulblets of all plants generally recognized as weeds within this State, and shall include noxious weed seeds.

(b) Noxious weed seeds are hereby divided into two (2) groups defined as follows:

1. "Prohibited noxious weed seeds" are the seeds of perennial and other serious weeds that not only reproduce by seed but also may spread by underground roots, stems, and other reproductive parts, and which when well established, are highly destructive and difficult to control in this State by ordinary good cultural practice. Prohibited noxious weed seeds shall include the seeds of:

Canada thistle	(Cirsium arvense)
	(Carduus arvensis)
Leafy spurge	(Euphorbia esula)
White top	[Lapidium Cardaris draba]
(Perennial peppergrass)	(Cardaria draba)
(Hoary cress)	(Cardaria pubescens)
Quackgrass	(Agropyron repens)
Russian knapweed	(Centaurea picris)
Perennial sow thistle	(Sonchus arvensis)
Wild morning glory	(Convolvulus arvensis)
(Field bindweed)	
Dalmation toadflax	(Linaria dalmatica)
Halogeton	(Halogeton glomeratus)
Medusa-head wildrye	(Elymus caput-medusae)
Creeping bell flower	(Campanula repunculoides)
Common toadflax	(Linaria vulgaris)

2. "Restricted noxious weed seeds" are the seeds of weeds that are very objectionable in fields, lawns and gardens of this state, but can be controlled by good cultural practices. Restricted noxious weed seeds shall include the seeds of:

Dodder	( <i>Cuscuta</i> spp.)
Blue flowering lettuce	( <i>Lactuca pulchella</i> )
St. Johnswort	( <i>Hypericum</i>
(Klamath-weed)	<i>perforatum</i> )
Ox-eye daisy	( <i>Chrysanthemum</i>
	<i>leucanthemum</i> )
Spotted knapweed	( <i>Centaurea</i>
	<i>maculosa</i> )
Hoary false alysium	( <i>Berteroa incana</i> )
Wild oats	( <i>Avena fatua</i> )
Buckhorn plantain	( <i>Plantain</i>
	<i>lanceolata</i> )
Chickweed	( <i>Stellaria</i> spp.)
Curled dock	( <i>Rumex crispus</i> )

(5) The term "hybrid" applied to kinds of varieties of seed means the first generation seed of a cross produced by controlling the pollination and by combining (a) two or more inbred lines; (b) one inbred or a single cross with an open pollinated variety; or (c) two or more selected clones, seed lines, varieties, or species. "Controlling the pollination" means to use a method of hybridization which will produce pure seed which is at least seventy-five per cent (75%) hybrid seed. Hybrid designations shall be treated as variety names.

(6) The terms "approximate percentage" and "approximate number" shall mean the percentage or number with the variations above or below as allowed according to the tolerance limits defined in the "rules for seed testing" adopted by the Association of Official Seed Analysts of North America.

(7) The term "percentage of germination" shall mean the percentage of seeds which show normal sprouts as evidence of vitality when the seeds are subjected to the proper moisture and temperature conditions with proper aeration for the customary length of time for each specific kind of seed, as specified in the "rules for seed testing" adopted by the Association of Official Seed Analysts of North America.

(8) The term "name of state in which the seed was grown" shall mean any of the several states of the United States or the foreign country.

(9) The term "other crop seeds" shall mean any agricultural, vegetable, or flower seeds other than the seed or the mixture of seeds under consideration.

(10) The term "sell" shall include, "offer for sale," "expose for sale," "have in possession for sale," "exchange," "barter," or "trade." It shall also include agricultural seeds which are furnished to growers for the production of a crop on contract.

**3-802.2 Labeling of agriculture seeds.** The owner, vendor, or person in possession of each and every package, parcel, or lot of agricultural seeds, as defined in the first section of this act, that contains one (1) pound, or more, of agricultural seeds, whether in package or in bulk, shall before offering the seeds for sale affix in a conspicuous place on the exterior of



the container a written or printed label in the English language in legible type or copy and the label shall contain a statement specifying:

(1) A lot number or other distinguishing mark.

(2) **KIND.** The name of each kind of seed present in excess of 5 percent shall be shown on the label and need not be accompanied by the word "kind". When two or more kinds of seed are named on the label, the name of each kind shall be accompanied by the percentage of each. When only one kind of seed is present in excess of 5 percent and no variety name or type designation is shown, the percentage of that kind may be shown as "pure seed" and such percentage shall apply to seed of the kind named.

#### VARIETY.

(a) The following kinds of agricultural seeds are generally labeled as to variety and shall be labeled to show the variety name or the words "Variety Not Stated".

Alfalfa	Millet, foxtail
Barley	Oat
Bean, field	Pea, field
Beet, field	Rye
Brome, smooth	Safflower
Clover, crimson	Sorghum
Clover, red	Sorghum-Sudan hybrid
Clover, white	Soybean
Corn, field	Sudangrass
Corn, pop	Sunflower
Fescue, tall	Trefoil, birdsfoot
Flax	Wheat, common
	Wheat, durum

(b) If the name of the variety is given, the name may be associated with the name of the kind with or without the words "kind and variety." The percentage in this case may be shown as "pure seed" and shall apply only to seed of the variety named. If separate percentages for the kind and the variety or hybrid are shown, the name of the kind and name of the variety or the term "hybrid" shall be clearly associated with the respective percentages. When two or more varieties are present in excess of five percent (5%) and are named on the label, the name of each variety shall be accompanied by the percentage of each.

(3) If any one kind or kind and variety of seed present in excess of five percent (5%) is "hybrid" seed, it shall be designated "hybrid" on the label. The percentage that is hybrid shall be at least ninety-five percent (95%) of the percentage of pure seed shown unless the percentage of pure seed which is hybrid seed is shown separately. If two or more kinds or varieties are present in excess of five percent (5%) and are named on the label, each that is hybrid shall be designated as hybrid on the label. Any one kind or kind and variety that has pure seed which is less than ninety-five percent (95%) but more than seventy-five percent (75%) hybrid seed as a result of incompletely controlled pollination in a cross shall be labeled to show (a) the percentage of pure seed that is hybrid seed or (b) a statement such as "Contains from seventy-five percent (75%) to ninety-five percent (95%) hybrid seed." No one kind or vari-

ety of seed shall be labeled as hybrid if the pure seed contains less than seventy-five percent (75%) hybrid seed.

(4) Origin, state or foreign country if known, of alfalfa, red clover, white clover, native range grasses and field corn other than hybrid. If the origin is unknown, the fact shall be stated.

(5) The approximate percentage of germination of agricultural seed, together with the date of test of germination. In all cases where hard seeds remain at the end of the germination test, the percentage of actual germination and the percentage of hard seeds shall be stated separately; with the provision that any portion or all of the percentage of hard seeds may be added to the percentage of germination, and stated as "total germination and hard seeds."

(6) The approximate percentage by weight of pure seed, meaning the freedom of agricultural seeds from inert matter and from other seeds.

(7) The approximate percentage by weight of sand, dirt, broken seeds, sticks, chaff, and other inert matter combined in agricultural seeds.

(8) The approximate total percentage by weight of weed seeds.

(9) The approximate percentage by weight of other crop seeds in agricultural seeds.

(10) The name and approximate number of each kind or species of restricted noxious weed seeds occurring in excess of nine (9) weed seeds per pound of agricultural, vegetable, or flower seeds.

(11) The full name and address of the seedsman, importer, dealer or agent, other person or persons, or firm or corporation selling the agricultural seed.

(12) In the case of mixtures of agricultural seeds which contain two (2) or more kinds of seed in excess of five percent (5%) by weight of each, when sold as mixtures:

- (a) Name of mixture.
- (b) The name and approximate percentage by weight of each kind of agricultural seed present in the mixture in excess of five percent (5%) by weight of the total mixture.
- (c) Approximate percentage by weight of broken seeds and other inert matter in the mixture of agricultural seeds.
- (d) Approximate percentage by weight of weed seeds as defined in the first section (3-802.1) of this act.
- (e) Approximate percentage by weight of other crop seed in the mixture of agricultural seeds.
- (f) The name and approximate number of each kind or species of restricted noxious weed seeds occurring in excess of nine (9) weed seeds per pound of mixtures of agricultural seeds, subject, however, to restrictions as specified in the fourth section of this act.
- (g) Approximate percentage of germination of each kind of agricultural seed present in the mixture in excess of five percent (5%) by

weight, together with the month and year the seed was tested. In all cases where hard seeds remain at the end of the germination test, the percentage of actual germination and the percentage of hard seeds shall be stated separately, with the provision that any portion or all of the hard seed may be added to the percentage of germination and stated as "total germination and hard seed."

- (h) Full name and address of the vendor of the mixture.

**3-802.3. Labeling of vegetable & flower seeds.** Vegetable and flower seeds in packets and in larger containers shall be labeled with the required information as follows:

- (1) Each container of one (1) pound or less:
  - (a) The commonly accepted name of the kind or the kind and variety of the seed.
  - (b) The name and address of the person who labeled the seed or who sells the seed within this State.
  - (c) The name and number per pound of each kind of restricted noxious weed seeds as prescribed in section 4 of this act.
  - (d) In the case of seed which has a percentage of germination less than the standard prescribed in the Federal Seed Act:
    - 1. The percentage of germination.
    - 2. The percentage of hard seed, if more than one percent (1%).
    - 3. The month and year the test to determine the data required by this section was completed.
    - 4. The words "below standard germination" in not less than eight (8) point bold face type.
- (2) Each container of more than one (1) pound:
  - (a) The name of the kind and variety of the contents.
  - (b) The lot numbers or other lot identification.
  - (c) The name and number per pound of each kind of restricted noxious weed seed as prescribed in section 4 (3-820) of this act.
  - (d) The percentage of germination and whether the percentage of germination meets or exceeds the standard established in the Federal Seed Act.
  - (e) The percentage of hard seed, if more than one percent (1%).
  - (f) The month and year the test to determine the data required by this section was completed.
  - (g) The name and address of the person who labeled the seed or who sells the seed within this State.

**3-803. Exception of seeds, when.** Agricultural seeds or mixtures of same shall be exempt from the provisions of this act:

- (1) When possessed, exposed for sale, or sold for food purposes only.



(2) When sold to merchants or dealers to be recleaned before being sold or offered for sale for seeding purposes.

(3) When in store for the purpose of recleaning or not possessed, sold, or offered for sale for seeding purposes within the State.

**3-804. Penalty.** Any person, firm, or corporation who sells, offers or exposes for sale or distribution in the State any agricultural seeds for seeding purposes, without complying with the requirements of this act, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars (\$25.00), nor more than one hundred dollars (\$100.00) and costs of such prosecution, and upon conviction of the second or any subsequent offense shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) and costs of such prosecution.

**3-805. Inspection by director of state grain and seed laboratory—reports—enforcement.** The director of the Montana grain inspection laboratory, of the Montana agricultural experimental station, his agent, or agents, shall inspect, examine, or make analyses of and test seeds sold, offered or exposed for sale in the State at such time and place and to such an extent as he and the Commissioner of Agriculture may determine. Such director shall report to the Commissioner of Agriculture all violations as they appear. He shall also annually and not later than September first, make a report to the Commissioner of Agriculture of all tests made and the results thereof, which report may be published by the Commissioner of Agriculture, separately, or along with any other annual or biennial report of the department. Such director, or his agent or agents, and the Commissioner of Agriculture and his authorized representatives shall have free access at all reasonable hours to all premises or structures to make examination of any seeds, or any other premises of any warehouse, elevator, or railway company; and upon tendering payment thereof, at the current value, may take any sample or samples of such seeds.

It is hereby made the duty of the Commissioner of Agriculture of the Department of Agriculture to administer and enforce this act. For that purpose, he is hereby empowered to make all proper rules and regulations not inconsistent with this act or any Federal laws now in effect or which may hereafter be enacted. To aid in the enforcement, he or his agents shall have power to issue and enforce a written or printed "stop-sale" order to the owner or custodian of any lot of agricultural seed which the Commissioner of Agriculture or his agent finds in violations of any of the provisions of this act, which order shall prohibit further sale of such seed until such officer has evidence that the law has been complied with. The seed shall not be confiscated nor destroyed and upon proper correction, by reprocessing, labeling or otherwise, and when in the judgment of the Commissioner of Agriculture, the requirements of this act have been met, the stop sale order shall be lifted and the seed be permitted to be sold in the regular channels of trade. The director of the Montana grain inspection laboratory of the Montana agricultural experiment station shall formulate all necessary and proper rules and regulations relating to all his duties enumerated herein.

**3-806. Employment and payment of inspection agents.** The director of the Montana grain inspection laboratory under the direction of the director of the Montana agricultural experiment station, may employ such agents as are deemed necessary to each year inspect, sample and make analysis of any agricultural seed on sale in the State for seeding purposes within the State, and the salaries and necessary expenses of such agents, together with the cost of publishing the findings of such inspections and analysis, shall be paid out of moneys appropriated for the Montana grain inspection laboratory, of the Montana agricultural experiment station.

**3-807. Samples may be sent to the laboratory for testing.** Any citizen of the State of Montana may request the Montana grain inspection laboratory of the Montana experiment station to examine, analyze and test samples of seed upon payment of the fee thereof and compliance with the regulations promulgated by the director of the state grain inspection laboratory governing the submission of seed samples for such service. Samples of seed analyzed and tested, shall be charged for at rates determined jointly by the Commissioner of Agriculture, the director of the Montana agricultural experiment station, and the director of the Montana grain inspection laboratory. All such fees are hereby appropriated for the use and benefit of the Montana grain inspection laboratory of the Montana agricultural experiment station to defray the expenses incurred by said laboratory, under the provisions of this act.

**3-808. Certificate of test presumptive evidence.** The certificate of the Montana grain inspection laboratory of the Montana agricultural experiment station, giving results of any examinations, analyses or tests of any seed samples made under the authority of the Commissioner of Agriculture of the Department of Agriculture shall be presumptive evidence of the correctness of the facts therein stated.

**3-809. Certified seeds—advertisement—definition.** Every person, firm, association, or corporation who shall issue, use, or circulate any certificate, advertisement, tag, seal, poster, letterhead, marking, circular, written or printed representation or description, of or pertaining to seeds or plant parts intended for propagation or sale, or sold or offered for sale wherein the words "Montana State Certified," "State Certified," "Montana Certified," or similar words or phrases are used or employed, shall be subject to the provision of this act. Every issuance, use or circulation of any certificate and/or other instrument, as in this section above described, shall be deemed to be "certification" as that term is employed in this act.

**3-810. Rules and regulations by Montana state college—certification agencies.** Every person, firm, association, or corporation subject to the provisions of this act shall observe, perform or comply with all rules, regulations and requirements fixed, established or specified by Montana state college, hereafter referred to as the college, as to what crops grown or to be grown in Montana shall be eligible for certification hereunder, as to the conduct of such certification, either by said college directly or by agents or agencies authorized by it for the purpose, and as to standards, requirements and forms of and for certification hereunder; provided, however, that not more than one such agent or agency for certification shall



be designated for any one specified crop. No certification, within the provisions of the act shall be made or authorized except by or through said college.

**History:** En. Sec. 2, Ch. 11, L. 1951.

**3-811. Certification work on self-supporting basis.** Certification work, whether conducted by said college or by an agency designated by it, shall be on a self-supporting basis and not for financial profit.

**History:** En. Sec. 3, Ch. 11, L. 1951.

**3-812. College exempt from liability.** The said college shall not be financially responsible for debts incurred by damages, or contracts broken by certifying agencies in conducting certification work.

**History:** En. Sec. 4, Ch. 11, L. 1951.

**3-813. Withholding certification.** The said college or its designated agency or agencies, may withhold certification from any grower of seeds or plant parts who is engaged in or attempting to engage in any dishonest practices for the purpose of evading the provisions of this act, including standards, rules and regulations laid down by the said college or its designated agency or agencies to cover certification.

**History:** En. Sec. 5, Ch. 11, L. 1951.

**3-814. Unlawful use of certification—penalty.** It shall be unlawful for any person, firm, association or corporation to issue, make, use or circulate any certification as defined in this act, without the authority and approval of the said college, or its duly authorized agency, as herein provided. Every person, firm, association, or corporation who shall violate any of the provisions of this act pertaining to certification shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred dollars (\$100.00) nor exceeding five hundred dollars (\$500.00) for each offense.

**History:** En. Sec. 6, Ch. 11, L. 1951.

**3-815. Montana seed laws not repealed.** Nothing contained in this act shall be construed to repeal any provisions of the Montana state seed laws.

**History:** En. Sec. 7, Ch. 11, L. 1951.

**3-820. Prohibitions.** No person, firm, corporation, co-partnership or association shall sell or transport for use in planting in the State of Montana any agricultural vegetable or flower seed that:

- (1) Contains prohibited noxious weed seeds.
- (2) Contains restricted noxious weed seeds in excess of the maximum numbers per pound as follows:

Species		Number allowed per pound
Dodder	( <i>Lactuca pulchella</i> )	18
Blue flowering lettuce	( <i>Cuscuta</i> spp.)	27
St. Johnswort (Klamath-weed)	( <i>Hypericum perforatum</i> )	27
Ox-eye daisy	( <i>Chrysanthemum</i> <i>leucanthemum</i> )	90
Spotted knapweed	( <i>Centaurea maculosa</i> )	18
Hoary false alyssum	( <i>Berteroa incana</i> )	9
Wild oats	( <i>Avena fatua</i> )	45
Buckhorn plantain	( <i>Plantago lanceolata</i> )	90
Chickweed	( <i>Stellaria</i> spp.)	9
Curled dock	( <i>Rumex crispus</i> )	45



(3) Contains in excess of two percent (2%) or more of weed seed.

(4) Is offered or exposed for sale more than nine (9) calendar months from the last day of the month in which the germination test was completed. This nine (9) month limitation shall not apply when seed is packaged in hermetically-sealed containers within twelve (12) months after harvest. The container must be conspicuously labeled in not less than eight (8) point type to indicate:

- (a) That the container is hermetically sealed.
- (b) That the seed has been preconditioned as to moisture content.
- (c) That the germination test is valid for a period not to exceed eighteen (18) months from the date of the germination test for seeds offered for sale on a wholesale basis, and for a period not to exceed thirty-six (36) months for seeds offered for sale at retail.
- (d) That the germination of vegetable seed at the time of packaging was equal to or above standards prescribed in the Federal Seed Act of August 1963, with subsequent revisions.

(5) Is represented in any manner to be for lawn seeding purposes, unless it contains at least fifty percent (50%) pure seed of perennial fine-leaf species which shall be specified by rules and regulations pursuant to this act. However, grass mixtures which do not contain fifty percent (50%) pure seed of perennial fine-leaf grasses may be sold. When these grass mixtures are contained in packages of twenty-five (25) pounds or less, they shall carry the statements: "Not recommended for a fine-leaf perennial turf. Satisfactory for a temporary ground cover or where coarse grass is not objectionable." A definition of fine-leaf varieties to be promulgated in the regulations is as follows:

- (a) Bluegrasses—all varieties except Canada Bluegrass (*Poa compressa*) and Annual Bluegrass (*Poa annua*).
- (b) Chewings Red Fescue and all improved varieties.
- (c) Creeping Red Fescue and all improved varieties.
- (d) Bentgrass—all varieties.
- (e) Fine leafed ryegrasses.

**3-821. Commissioner of Agriculture empowered to revise classifications—hearing—order.** The Commissioner of Agriculture may, with the written approval of the director of the Montana experiment station recorded prior to or within ten (10) days after the public hearing, prescribed herein, add to or remove from, revise, or modify the foregoing groups and classifications of noxious weed seeds, and the noxious weed seeds within any groups or classifications, as the circumstances may require in aid of the purpose of this act to prevent or diminish the distribution and occurrence of such noxious weed seeds within the State of Montana, but no additions, removals or modifications shall be made without a full public hearing, on adequate and informative written or published notice plainly stating the exact additions, removals or modi-

fications proposed to be made, and said notice shall be given by the Commissioner at least thirty (30) days before the day set for said hearing and shall state the time and place of said hearing, and said notice shall be published in three (3) newspapers of general circulation in the State, and such notice shall be mailed to all associations of seed dealers in the State who are organized on a State-wide basis. If any revision or modification is determined to be made as a result of any such hearing, the same shall be promulgated by a written order of the Commissioner, countersigned "approved" by the director of the Montana experiment station, plainly stating the revisions or modifications and the effective date or dates thereof, and any and all qualifications, exceptions or conditions connected with such revisions or modifications.

**SEED LABORATORY  
MONTANA STATE UNIVERSITY  
BOZEMAN, MONTANA 59715**

**SAMPLING SEED FOR TESTING**

**Careful Sampling Insures Reliable Results**

The method of taking the sample and the size of sample submitted for the test are of prime importance if the results of the tests are to be reliable.

**1. Method of Taking Sample**

Do not depend upon a sample dipped from one sack of a lot of seed or from one place in a bin of seed. If possible use a bag sampler or grain probe. Take portions from each sack in small lots of seed and from at least five sacks in larger lots. Grain or seeds in bulk in bins or cars should be sampled in five to ten places.

If a sack trier or grain probe is not available, portions of seed may be taken with cup or by hand, but the grain probe gives the more reliable results.

Combine all portions from each lot of seed into one composite sample and mix it thoroughly by rolling ten or more times on a piece of paper or cloth. The sample of proper size is then taken from this.

**2. Size of Sample To Be Submitted**

- (a) One cupful of small grass seed and other seeds not larger than white clover.
- (b) One pint of large grass seeds and other seeds similar in size to alfalfa, and small or foxtail millet.
- (c) One pint of flax and large or proso millet.
- (d) One quart of seeds similar in size to wheat and other cereals, corn, beans, and peas.

**3. Information To Accompany Sample**

It is important that each sample bear the following information:

- 1. Name and post office address of sender.
- 2. Sender's mark or number so he will know for what lot of seed any given report is intended. This is especially important if more than one sample is sent to the laboratory.
- 3. Kind of test desired—Purity, Germination, Tetrazolium test, Stripe Mosaic virus test (barley), Grade, Protein.

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**OFFICIAL GRAIN STANDARDS  
FOR MONTANA**

**As determined by U. S. Department of Agriculture  
Has Been Adopted By the  
STATE OF MONTANA**

Copies may be obtained upon request to the  
**Grain Division**

**Consumer & Marketing Service**

**U. S. DEPARTMENT OF AGRICULTURE  
Federal Building  
Great Falls, Montana**











